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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
09/974,780	10/09/2001	Max Schaldach	7040-46	6883	
21324	7590 03/02/2005		EXAM	EXAMINER	
HAHN LOESER & PARKS, LLP			BAXTER, JESSICA R		
One GOJO Pl Suite 300	aza		ART UNIT	PAPER NUMBER	
AKRON, OH	I 44311-1076		3731		
			DATE MAILED: 03/02/2009	5	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Application No.   Optification No.   Optifica	:				SP					
Examiner  Jessica R Baxter  3731  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  It is the provided of the providence of 31°CPR 1.135(b). In one event, however, may a reply be timely filled  If the period for reply is specified above, the maximum datafore priorid will apply and will expert 51% (b) MONTHS from the mailing date of this communication.  If the period for early is specified above, the maximum datafore priorid will apply and will expert 51% (b) MONTHS from the mailing date of this communication.  If the period for early is specified above, the maximum datafore priorid will apply and will expert 51% (b) MONTHS from the mailing date of this communication.  If the period for early is specified above, the maximum datafore priorid will apply and will expert 51% (b) MONTHS from the mailing date of this communication.  Apply and the application is provided and the mailing date of this communication, even if timely filed, may reduce any surred patent term adjustment. See 37 CPR 1.704(b).  Status  1) Responsive to communication(s) filed on 29 October 2004.  2a) This action is FINAL.  2b) This action is non-final.  3) Is action is FINAL.  2b) This action is non-final.  3) Is action is FINAL.  2b) This action is non-final.  3) Is action is FINAL.  2c) Is action is final maximum datafore priorid patent from consideration.  4) Claim(s) 1-69 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  5) Claim(s) 3+4-04-49 and 54-56 slare objected to.  3) Claim(s) 3+4-04-49 and 54-56 slare objected to.  4) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) to believe filed to.  2c) Claim(s) 3-4-04-49 and 54-56 slare obj	:		Application No.	Applicant(s)	<i>9</i> 1					
Jassica R Baxter   3731	:		09/974,780	SCHALDACH ET	AL.					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address recircled for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Estatestos of time may be available under the provisions of 3°CR1.13(6). In no event, however, may a reply be timely filled  Estatestos of time may be available under the provisions of 3°CR1.13(6). In no event, however, may a reply be timely filled  Estatestos of time may be available under the provisions of 3°CR1.13(6). In no event, however, may a reply be timely filled  If the period for reply specified above is less than thirth (50) dains, a reply valid he as that one of the provision of Claims  A) Claim(s) 1.50 is/are pending in the application.  4) Of the above claim(s) is/are allowed.  6) Claim(s) 1.51.41.42.50.52.59 and 60 is/are rejected.  7) Claim(s) 3.4-40.44.49 and 54-58 is/are objected to.  8) Claim(s) 3.4-40.44.49 and 54-58 is/are objected to.  8) Claim(s) 3.4-40.44.49 and 54-58 is/are objected to.  9) The specification is objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  Application Papers  9) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some "Old None of.  10 Certified copies of the priority documents have been received.  21 Certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.	:	Office Action Summary	Examiner	Art Unit						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Exercision of time may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a reply be timely filed  - Exercision of time may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a reply be timely filed  - Exercision of time may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a reply be timely filed  - Exercision of time provision of the provision of 37 CFR 1.35(a). In order the provision of Claims  4) Claim(s) 1.69 (sfare pending in the application.  4a) Of the above claim(s) isfare allowed.  6) Claim(s) 1.69 (sfare pending in the application.  4a) Of the above claim(s) isfare allowed.  6) Claim(s) 1.61,1.42,50-52.59 and 60 isfare rejected.  7) Claim(s) 3.4-40.44.99 and 54-59 isfare objected to.  8) Claim(s) 1.61,1.42,50-52.59 and 60 isfare rejected.  7) The drawing(s) filed on			Jessica R Baxter	3731						
THE MAILING DATE OF THIS COMMUNICATION.  Estenciona (film may be available under the provision of 3 of PR 1.13(6). In an event, however, may a right be timely filed after SIX (6) MOSTHS from the mailing date of his communication.  If the period in may be available under the provision of 30 of PR 1.79(6) dates, a right within the adultory minimum of thirty (20) days will be considered limity.  If the period in may be available to response to be called particular to reply well, by adultory minimum of the provision of the provisio	⊃e		pears on the cover sheet w	ith the correspondence ac	idress					
1) Responsive to communication(s) filed on 29 October 2004.  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-80 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) ts/are allowed. 6) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.  **Attachment(s)**  1) Notice of Draftsperson's Patent Drawing Review (PTO-948) objection (PTO-152)  **Diplomation Disclosure Statement(s) (PTO-1449 or PTO/SS00)  **Diplomation Disclosure Statement(s) (PTO-149 or PTO/SS00)		THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any								
2a  This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-60 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  5) Claim(s) 1-150 is/are allowed.  6) Claim(s) 1-1541.42.50-52.59 and 60 is/are rejected.  7) Claim(s) 34-40.44-49 and 54-58 is/are objected to.  8) Claim(s) 34-40.44-49 and 54-58 is/are objected to.  8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.	Sta	atus								
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11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)    Notice of References Cited (PTO-892)   Paper No(s)/Mail Date.										
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12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  Attachment(s)  Attachment(s)  Attachment(s)  A Description of References Cited (PTO-892)  A Description of Pto-413)  Paper No(s)/Mail Date  Paper No(s)/Mail Date  Description of Informal Patent Application (PTO-152)		11) The oath or declaration is objected to by the Ex	kaminer. Note the attache	ed Office Action or form P	TO-152.					
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3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☒ Notice of References Cited (PTO-892)  2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  5) ☐ Notice of Informal Patent Application (PTO-152)				Application No.						
* See the attached detailed Office action for a list of the certified copies not received.  *Attachment(s)    Notice of References Cited (PTO-892)		<u> </u>		• • • • • • • • • • • • • • • • • • • •	Stage					
Attachment(s)    Outline of References Cited (PTO-892)		application from the International Bureau	u (PCT Rule 17.2(a)).							
Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  A) Interview Summary (PTO-413) Paper No(s)/Mail Date.  Notice of Informal Patent Application (PTO-152)		* See the attached detailed Office action for a list	of the certified copies no	t received.						
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3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  5) Notice of Informal Patent Application (PTO-152)										
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#### **DETAILED ACTION**

#### Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 29, 2004 has been entered.

### Claim Objections

2. Claims 35-40, 44-49, and 54-58 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claims are dependent on claims that are cancelled.

### Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

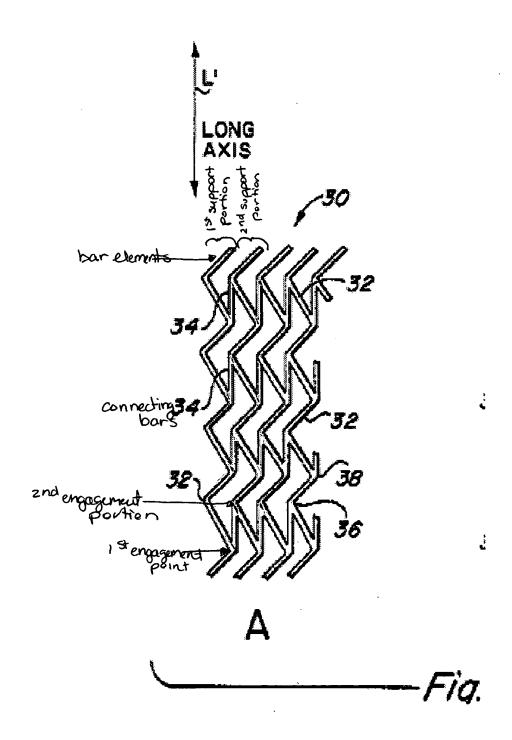
A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 4. Claims 1-15, 41, 42, 50-52, 59 and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by PG-PUB 2003/0004567 to Boyle et al.

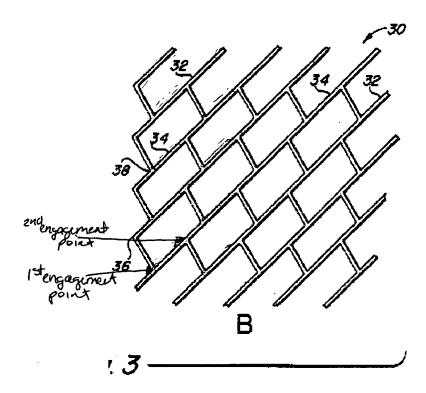
Art Unit: 3731

Boyle discloses a stent, for expansion from a first condition into an expanded second condition in which it holds a vessel in an expanded state, said stent comprising: a tubular body, a peripheral surface of which is formed by a plurality of support portions that extend in a longitudinal direction of the stent, the support portions comprising: a plurality of bar elements wherein each end of each bar element, excepting bar elements on the ends of the tubular body, connects to an adjacent bar element, forming an angle of between 80 and 100 degrees; and a plurality of connecting bars, extending rectilinearly in the longitudinal direction of the stent when in the first condition, that connect the bar elements; wherein the support portions form a plurality of support portion groups with at least a first support portion and a second support portion in adjacent relationship thereto in a peripheral direction of the stent, the bar elements of which extend in a meander configuration in the longitudinal direction of the stent, and wherein a first engagement point of the connecting bars engages the first support portion and a second engagement point of the connecting bars engages the second support portion, such that the first and second engagement points are spaced apart from each other in the longitudinal direction of the stent and the connecting bars are configured and arranged so the spacing in the longitudinal direction between the first and second engagement points decreases upon expansion of the stent (FIG. 3). Boyle discloses that at least the bar elements of a first support portion and of the two second support portions arranged in the peripheral direction of the stent at both sides of the first support portion extend in a meander configuration in the longitudinal direction of the stent and the first engagement points of the connecting bars engage the first support portion and the second engagement points of the connecting bars engage one of the two second support portions, wherein the first and second engagement points are spaced relative to each other in Art Unit: 3731

the longitudinal direction of the stent and the connecting bars are configured and arranged so that the spacing in the longitudinal direction of the stent changes between the first and second engagement points changes upon expansion of the stent in the same manner. Boyle discloses that at least the first engagement points of the connecting bars are located near a turning point of the bar element to which the connecting point is engaged. Boyle discloses that the second engagement points of the connecting bars are located near a turning point of the bar element to which the connecting point is engaged. Boyle discloses that the connecting bars are of a substantially straight configuration. Boyle discloses that a connecting line between the first and second engagement points extends substantially in the longitudinal direction of the stent. Boyle discloses that the bar elements of the first and second support portions are of substantially the same period configuration and a length of the connecting bars is such that in the second condition of the stent the adjacent bar elements extend substantially in phase with each other with respect to the longitudinal direction of the stent. Boyle discloses that at least one support portion formed by a bar element, the direction of curvature of which changes in a central region between a pair of turning points (see attached Figures 3A and 3B, Figure 3A is the stent in the first condition, and Figure 3B is considered to be the stent in the second condition).



First Condition of the Stent



## **Second Condition of the Stent**

## Response to Arguments

5. Applicant's arguments with respect to claims 1-60 have been considered but are moot in view of the new ground(s) of rejection.

## Allowable Subject Matter

6. Claims 34, 43, and 53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Application/Control Number: 09/974,780

Art Unit: 3731

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Jessica R Baxter whose telephone number is 571-272-4691. The examiner can

normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Anhtuan T Nguyen can be reached on 571-272-4963. The fax phone number for the organization

where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system,

see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system,

contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica R Baxter Examiner

Art Unit 3731

JUB)

ANHTUANT. NGUYEN SUPERVISORY PATENT EXAMINER

2/28/05